

2. All vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting.
3. A preconstruction meeting will be held on-site prior to construction. The bulkhead shall be placed as close to the existing bulkhead as feasible, shall be as straight as feasible, and shall be at the same height as the adjacent bulkheads. Minor adjustments to the location of the bulkhead may be made during the pre-construction meeting.
4. Filter fabric shall be used behind the proposed bulkhead. Inspection of the filter fabric must occur prior to commencement of backfilling operations.
5. The permit shall expire February 12, 2004.
6. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to the expiration date.

The Board felt the distance on the application was difficult to read and asked if the bulkhead was to go 2 feet or 7 feet in front of the old bulkhead. Mr. Lindsey stated that it also appeared that there were 3 sets of numbers given throughout the application for the placement of the bulkhead and wanted clarification.

Mr. Lindsey opened the public hearing and as no one wished to speak he closed the public hearing.

The Board noted that neither the property owner nor their designated representative was present. They held a short discussion and agreed that it was difficult to make a decision on any case when neither the owner nor their representative was available to answer questions.

In response to a question from the Board, Mr. Stagg informed the Board that per State Code they had 30 days from the date of the public hearing to make a decision on the case. If the Board failed to make a decision on the case within those 30 days, the case would automatically be approved.

Mr. Duffy made a motion to defer case W-38-02 until the March 12, 2003 Board meeting, at which time the property owner must be present.

Mr. Gussman amended the motion to have either the property owner or their designated representative be present.

The motion was approved with a 5-0 vote.

2. W-39-02/VMRC 02-2455: Busch Properties, Inc.- Halfway Creek/Mounts Bay Road

Ms. Beth Davis presented the case stating that Mr. Rudy Schwab of the Kingsmill Community Services Association had applied for a wetlands permit to install an 8" I.D. PVC drain pipe at each end of the Mounts Bay Road Bridge along with 12 feet of riprap at the outfalls. The property is further identified as parcel (1-1) found on the James City County

Real Estate Tax Map (50-3). The project site in question is located on Halfway Creek which is a tributary to the James River.

Environmental Division staff visited the site on January 10, 2003 and January 24, 2003, along with a representative from VIMS to discuss the project scope and potential impacts. Proposed impacts for this project are determined to be 144 sq. ft to the Type XV Sand/Mud Mixed Flat Community.

It is the staff's recommendation that the Board approve this application, with the following conditions:

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. The limits of construction shall be flagged in the field prior to the preconstruction meeting.
3. All vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting.
4. Any landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and disturbed during the construction process will require restoration with native vegetation consisting of trees, shrubs and ground cover. If vegetation is removed for construction access, an RPA restoration plan with surety shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
5. All vegetation to be removed for this project shall be approved by the Environmental Division prior to any land disturbance.
6. The Environmental Division reserves the right to require a turbidity curtain for this project if field conditions warrant its use.
7. Filter fabric shall be inspected by the Environmental Division prior to the placement of riprap.
8. The permit shall expire February 12, 2004.
9. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to expiration date.

Mr. Duffy stated that it appeared work had already begun in this location and wanted to know if a preconstruction meeting had been held.

Ms. Davis and Mr. Menichino informed the Board that work had not begun on the wetlands project, however there were utility lines being installed, which did not require a permit from the County.

Mr. Lindsey opened the public hearing.

A. Mr. Richard Phillips, 225 William Claiborne, an adjacent property owner, addressed the Board. He stated that he had spent \$70,000 to install a gabion wall to repair his slope that had been damaged in the last large storm event. He was concerned that adding riprap to the slopes would alter the flow of water in a high storm event, which would again damage his property.

Mr. Menichino stated that the riprap being installed was minimal and its purpose was to control erosion on the slope. Ms. Davis showed Mr. Phillips the drawings and explained where the riprap would be installed.

Mr. Duffy inquired why the adjacent property owner acknowledgement forms were not included in the application.

Mr. Stagg responded that applicants are not required to contact adjacent property owners, but rather an option. He stated the application was marked to reflect that they had not contacted them. However, VMRC and the County are required to send out adjacent property owner notification letters.

Ms. Etchberger stated there was a mailing list attached to the application which listed all adjacent property owners who were notified by the County. (Mr. Phillips stated that he had the County's notification letter with him.)

Mr. Duffy stated that he was not so sure that those letters were actually received as there were no written responses indicating they had been.

B. Mr. James Cavalet, P.E., Collins Engineers, Inc. and engineer for the project, addressed the Board. He explained that this was actually a two-phase project. The first phase would be to place riprap around the bridge pier in the water where scour has occurred to keep the integrity of the bridge intact. The second phase, depending on money and interest by the Kingsmill Community Services Association, would be to place riprap on the slope of the bank to prevent further erosion of the bank.

C. Mr. Rudy Schwab, Kingsmill Community Services Association, stated all riprap on the slope would be placed within the shade of the bridge. He also stated that Virginia Natural Gas was in the process of installing gas lines in that area.

Mr. Gussman asked Mr. Cavalet if in his professional opinion this project would be detrimental to Mr. Phillip's property.

Mr. Cavalet stated he inspected the site himself and in his professional opinion, it would not affect Mr. Phillips property.

At this time Mr. Cavalet and Mr. Schwab conferred with Mr. Phillips and explained the details of the project.

As no one else wished to speak, Mr. Lindsey closed the public hearing.

The Board discussed their role in addressing all property owner concerns relating to applications submitted for their action. They agreed that in this case their jurisdiction only covered the 12 feet of riprap which was to be installed on the slopes.

Mr. Gussman asked Mr. Phillips if he was requesting the Board to deny the permit.

Mr. Phillips responded that he was not asking for a denial, he just had questions he wanted addressed.

Mr. Duffy made a motion to approve case W-39-02 with staff's recommendations.

The motion was approved by a 5-0 vote.

E. NEW BUSINESS - None

F. MATTERS OF SPECIAL PRIVILEGE

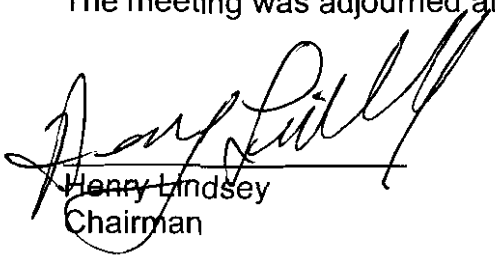
Mr. Stagg gave the Board details about the upcoming Annual Wetlands Symposium to be held on March 20, 2003. Staff will mail information to the Board.

The Board discussed their disappointment in the lack of owner representation at Board meetings. The Board directed staff that in all future Board cases staff request the applicant and/or the applicant's designated representative to extend the courtesy to the Board to be present at the meeting to address the Board's questions.

Mr. Duffy requested staff investigate paying mileage to Board members for county activities.

G. ADJOURNMENT

The meeting was adjourned at 8:10 PM.



Henry Lindsey
Chairman



Patrick Menichino
Environmental Inspections Supervisor